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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/767,031	01/29/2004	Richard Cressman	2003P06304 US01	4818
7590 04/30/2007 Alexander J. Burke Intellectual Property Department 5th Floor 170 Wood Avenue South Iselin, NJ 08830			EXAMINER PADMANABHAN, KAVITA	
			ART UNIT 2161	PAPER NUMBER
			MAIL DATE 04/30/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/767,031	Applicant(s) CRESSMAN, RICHARD	
	Examiner Kavita Padmanabhan	Art Unit 2161	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 February 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>2/15/07</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Status of Claims

1. Claims 1-20 are pending.
2. Claims 1-6, 12, 13, and 18 have been amended.
3. Claims 1-20 are rejected.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. **Claims 1-20** are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claims 1 and 6 each recite “employed by a processing device” in the preamble of the claims. There does not appear to be support for this in the applicant’s specification. In fact, the term “processing device” is not mentioned at all throughout the specification.

Claims 1, 6, 12, and 18 each recite “an identifier ... indicating end of said predetermined storage capacity of said first physical storage dataset”. There does not appear to be support for this limitation in the applicant’s specification, even in the portions referred to by the applicant as containing such support. Page 17 recites “At activity 2300, an identifier identifying an end

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storage address of a physical storage dataset is maintained. The identifier is a value stored in a particular address of a memory device. The identifier is one of a plurality of indicators related to one of a plurality of physical storage datasets. In certain exemplary embodiments, the identifier is an RBA. In certain exemplary embodiments, the identifier is a pointer identifying an address location of a particular record in the logical dataset.” However, this does not support the limitation specifying that the identifier indicates the end of the storage capacity of the physical dataset.

Claim 2 recites “maintaining a plurality of identifiers *in a repository*”. There does not appear to be support for this in the applicant’s specification. In fact, the term “repository” is not mentioned at all throughout the specification.

Claim 3 recites “sequentially storing data *in said first and second physical storage datasets*”. There does not appear to be support for this in the applicant’s specification.

The examiner will apply prior art to these claims as best understood, giving the claim language its broadest reasonable interpretation, in light of the above rejections.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. **Claims 1-9, 11-15, 17-18, and 20** are rejected under 35 U.S.C. 102(b) as being anticipated by **Brewer et al.** (US 5,613,082, hereinafter “Brewer”).

In regards to **claim 6, Brewer** teaches a method for processing application program data for storage and retrieval employed by a processing device, comprising the steps of:

- designating a logical dataset encompassing a plurality of physical storage datasets, each of said plurality of physical storage datasets having a predetermined storage capacity (**Brewer; col. 2, lines 47-48 – “Physical medium locations are identified”; col. 3, lines 12-16 – ““end-of-data” (EOD) data block”; col. 5, lines 50-59; col. 5, line 67 – col. 6, line 2; col. 7, lines 51-55 – “A partition is an addressable logical collection of contiguous sectors.”; col. 8, lines 58-62);**
- maintaining an identifier identifying an end storage address of a first physical storage dataset of said logical dataset indicating end of said predetermined storage capacity of said first physical storage dataset (**Brewer; col. 3, lines 12-16 - “EOD that signifies the end of data of a record medium”; col. 8, lines 58-62 – “The last EOD enables a fast locate to the end of recorded data on tape 21.”);**
- sequentially storing data in said logical dataset (**Brewer; col. 8, lines 22-36; col. 12, lines 47-50 – “each new partition being assigned a next higher sequence number”);**
- monitoring said sequential storage of data in said logical dataset to determine an occurrence of data storage at a location identified by said end storage address of said first physical storage dataset (**Brewer; col. 12, lines 2-11 and 32-50); and**
- continuing said sequential storage of data in a second physical storage dataset of said logical dataset starting at an address subsequent to said end storage address (**Brewer; col.**

12, lines 2-11 and 47-50 - “each new partition being assigned a next higher sequence number”).

In regards to **claim 7, Brewer** teaches the method according to claim 6, wherein said step of monitoring said sequential storage of data in said logical dataset includes the step of maintaining an identifier of storage capacity used in response to storage of data in said logical dataset (**Brewer; Fig. 4**).

In regards to **claim 8, Brewer** teaches the method according to claim 7, wherein said determination of said occurrence of data storage at said location identified by said end storage address of said first physical storage dataset is performed using said identifier of storage capacity used and said predetermined storage capacity of said first physical storage dataset (**Brewer; col. 8, lines 46-57; col. 10, line 63 – col. 11, line 10**).

In regards to **claim 9, Brewer** teaches the method according to claim 6, wherein said end storage address of said first physical storage dataset of said logical dataset comprises a relative address (**Brewer; Fig. 4; col. 7, lines 41-60; col. 8, lines 58-62**).

In regards to **claim 11, Brewer** teaches the method according to claim 6, wherein said identifier identifying an end storage address comprises a pointer supporting identifying address locations of particular records in said logical dataset (**Brewer; Fig. 4; col. 7, lines 41-60; col. 8, lines 58-62**).

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Claims 1-5 are rejected using the same rationale given for claim 6.

Claims 12-15 and 17 are rejected using the same rationale given for claims 6-9 and 11, respectively.

Claims 18 and 20 are rejected using the same rationale given for claims 6 and 9, respectively.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. **Claims 10, 16, and 19** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Brewer** in view of **Plow** (US 4,408,273).

In regards to **claim 10**, **Brewer** teaches the method according to claim 6.

Brewer does not expressly teach at least one physical storage dataset comprising an IBM virtual storage access method entry sequenced dataset (VSAM ESDS).

Plow teaches using VSAM ESDS for data set storage (**Plow**; col. 5, lines 11-29).

It would therefore have been obvious to one of ordinary skill in the art at the time of the applicant's invention to implement the method of **Brewer** using at least one VSAM ESDS, as taught by **Plow**, to access the stored data (**Plow**; col. 2, line 56 – col. 3, line 4).

Claims 16 and 19 are each rejected using the same rationale given for claim 10.

Response to Amendment

10. Applicant's amendments filed 2/15/07 with respect to the 35 U.S.C. 112, 2nd paragraph rejections have been fully considered. The corresponding rejections have been withdrawn accordingly.

11. Applicant's amendments filed 2/15/07 with respect to the 35 U.S.C. 101 rejections have been fully considered. The corresponding rejections have been withdrawn accordingly.

Response to Arguments

12. Applicant's arguments filed 2/15/07 with respect to the prior art rejections of the claims have been fully considered but they are not persuasive.

Applicant argues at page 19 of applicant's remarks that Brewer does not teach "an identifier identifying an end storage address of a first physical storage dataset of said logical dataset indicating end of said predetermined storage capacity of said first physical storage dataset." The examiner respectfully disagrees. The examiner first asserts that the limitation requiring that the identifier indicate an "end of said predetermined storage capacity of said first physical storage dataset" does not appear to be supported by the applicant's specification, as explained above. That being said, the examiner asserts that the EOD does indeed meet the claimed limitation, as presently recited. Brewer states at col. 3, lines 12-16 that the EOD "signifies the end of data of a record medium". The applicant further admits at page 9 of

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applicant's remarks that "the EOD in Brewster merely marks an address indicating the end of stored data." Therefore, the EOD certainly identifies an end storage address of a physical storage dataset, as required by the claim.

In response to applicant's arguments at page 10 of applicant's remarks, the recitation "employed by a processing device" has not been given patentable weight because the recitation occurs in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951).

In response to applicant's argument at page 10 of applicant's remarks that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., that the identifier facilitate sequential storage of data within a logical data set across different physical datasets) are not recited in the rejected claim(s). The claims merely requires that the identifier identify an end storage address of a physical storage dataset of a logical dataset, which it does. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Furthermore, Brewer does indeed teach logical and physical views of the stored data that is in accordance with applicant's stated definitions. For example at col. 2 Brewer discussed directories and data structures, which are examples of logical views of data, and also discusses physical medium locations and tape blocks, which are encompassed within those logical views. Furthermore, even if Brewer, at col. 2, does not require

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a host processor, the data is stated to be addressable by a host processor, and is therefore organized in a way that is viewable/addressable by such a host processor, which is in accordance with the definition of “physical” stated in the applicant’s specification. In response to applicant’s argument that Brewer does not teach a plurality of physical datasets, the examiner asserts that a “physical dataset” itself is not explicitly defined in the applicant’s specification and is indeed a broad term and a magnetic tape is not necessarily restricted to a single physical dataset. Each time data is written to the physical medium could even constitute a physical dataset in that it is a set of data that is written to physical storage addresses. The examiner again asserts that Brewer does indeed discuss both physical and logical datasets that meet the claimed limitations, as already discussed.

Applicant argues that although Brewer teaches creating sequential partitions and then receiving and storing data in those sequential partitions, Brewer allegedly does not teach sequentially storing data in a logical dataset. The examiner respectfully disagrees and asserts that creating sequential partitions and then receiving and storing data in those sequential partitions, does indeed constitute sequentially storing data in a logical dataset, in that the data is stored in sequential partitions, making it sequentially stored.

Applicant argues at page 12 of applicant’s remarks that Brewer does not teach “monitoring the amount of storage used by the logical dataset to enable allocation of physical memory device resources to the logical dataset.” The examiner respectfully disagrees and asserts that Brewer does indeed monitor the amount of storage used by the logical dataset, as already explained above and in the stated rejection of claim 6. Moreover, the examiner asserts that the

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phrase “to enable” merely requires that the function following the phrase is possible in the context of the prior art, i.e. the prior art is able to perform the function, which it clearly is.

Applicant argues at page 12 of applicant’s remarks that Brewer does not teach “continuing said sequential storage of data” and that Brewer is silent with respect to how data is stored. The examiner respectfully disagrees and again asserts that Brewer teaches creating sequential partitions and then receiving and storing data in those sequential partitions, which constitutes sequential storage of data that meets the language of the claims, as presently recited. Brewer also teaches EODs that are monitored and teaches extending the storage of data beyond a physical storage boundary, i.e. an EOD. The examiner also respectfully reiterates that there does not appear to be support in the applicant’s original specification for the identifier indicating an end of a predetermined storage capacity, as argued by the applicant. Lastly, the fact that EODs are moveable does not exclude them from meeting the language of the presently written claims, which requires that the identifier identify an end storage address of a physical storage dataset, which it does.

Conclusion

13. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

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will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Kavita Padmanabhan** whose telephone number is **571-272-8352**. The examiner can normally be reached on Monday-Friday, 9:00am-5:30pm.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Apu Mofiz can be reached on 571-272-4080. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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KP.

April 26, 2007


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SUPERVISORY PATENT EXAMINER